

1 CHRISTOPHER P. BURKE, ESQ.
Nevada Bar No.: 004093
2 atty@cburke.lvcoxmail.com
218 S. Maryland Pkwy.
3 Las Vegas, Nevada 89101
(702) 385-7987
4 Attorney for Debtor
5

ECF FILED ON 08/18/10

6 UNITED STATES BANKRUPTCY COURT

7 DISTRICT OF NEVADA

8 In Re:) BK-S-10-12354-LBR
9 ANTHONY F. HOLLINGSWORTH,) Chapter 13
10)
Debtor,)
11) DATE: 09-08-10
TIME: 10:30 A.M.

12 OPPOSITION TO MOTION FOR RELIEF FROM THE AUTOMATIC STAY

13 COMES NOW, the Debtor, ANTHONY F. HOLLINGSWORTH, (hereinafter
14 "Debtor" or "Hollingsworth"), by and through his attorney,
15 CHRISTOPHER P. BURKE, ESQ., and respectfully requests this Court
16 to deny the Motion For Relief From The Automatic Stay, filed by
17 Creditor, WELLS FARGO BANK, N.A., (hereinafter "Creditor" or
18 "Wells Fargo") by and through their attorneys, GREGORY L. WILDE,
19 ESQ. of WILDE & ASSOCIATES. This Opposition is based upon the
20 pleading and papers on file herein and the Memorandum of Points
21 and Authorities, attached hereto and incorporated herein.
22

23 FACTS

24 On February 16, 2010, a Chapter 11 bankruptcy was filed on
25 behalf of Debtor. Listed as a secured creditor is Wells Fargo,
26 the lien holder on the property located at 1508 Crystal Rainy, N.
27 Las Vegas, Nevada 89086.
28

POINTS AND AUTHORITIES

11 USC Section 362 (d) (1) states that the Court may terminate, modify or condition stay for cause, including the lack of adequate protection of an interest in property of such party in interest;---

11 USC Section 362 (d) (2) the Court may terminate, modify or condition a stay with respect to a stay of an act against property under subsection (a) of this section, if-

- (A) the debtor does not have an equity in such property AND
- (B) such property is not necessary to an effective reorganization

Wells Fargo is seeking relief from stay because of Hollingsworth's' lack of post petition payments on his mortgage. At this time, Hollingsworth owes approximately \$260,821.00 on his first mortgage to Wells Fargo. Wells Fargo estimate the property has a value of \$300,000.00.

First, Hollingsworth argues Wells Fargo admits there is equity in the property. As such this 'equity cushion' is enough to deny the lifting of the stay. Second, even if there is no equity in the property, the property must also not be necessary for a reorganization for the stay to lift. 11 U.S.C. § 362(d)(2). Since, this is the reason Hollingsworth filed chapter 13 it is necessary for his reoganization.

Third, Hollingsworth fell behind because of a family matter.

1 He will bring a payment to the hearing and requests six (6) months
2 to get current. Once, current, Hollingsworth will then maintain
3 his regular monthly mortgage payments to Wells Fargo.

4 Finally, Wells Fargo's attorneys fee request is too high and
5 should be reduced to a total of \$600.00 including the filing fee
6 of \$150.00.

7 THEREFORE, Hollingsworth requests that, the Motion for Relief
8 from Automatic Stay, be denied, or in the alternative stayed for a
9 period of time to allow Debtor to become current with his
10 payments.

11 DATED, this 18th day of August, 2010.

12
13
14 RESPECTFULLY SUBMITTED:

15
16 /S/CHRISTOPHER P. BURKE, ESQ.
17 CHRISTOPHER P. BURKE, ESQ.
18 Attorney for Debtor
19 218 S. Maryland Pkwy.
20 Las Vegas, NV 89101
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING OF OPPOSITION TO
MOTION FOR RELIEF FROM THE AUTOMATIC STAY

I hereby certify that I am an employee of CHRISTOPHER P. BURKE, ESQ., and on the 18th day of August, 2010, I caused to be served a true and correct copy of:

1. Opposition to Motion for Relief from the Automatic Stay. [Dkt.#30] in the following manner:

 X (ELECTRONIC SERVICE) Under Administrative Order 02-1 (Rev.8-31-04) of the United States Bankruptcy Court for the District of Nevada, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities.

 X (UNITED STATES MAIL) By depositing a copy of the above-referenced document for mailing in the United States Mail, first class postage prepaid, at Las Vegas, Nevada to the parties listed on the attached service list, at their last known mailing addresses, on the date above written.

 (OVERNIGHT COURIER) By depositing a true and correct copy of the above-referenced document for overnight delivery via Federal Express, at a collection facility maintained for such purpose, addressed to the parties on the attached service list, at their last known delivery address, on the date above written.

 (FACSIMILE) That I served a true and correct copy of the above-referenced document via facsimile, to the facsimile numbers indicated, to those persons listed on the attached service list,

1 on the date above written.

2 DATED: August 18, 2010.

3
4 /S/KAYLA WAGNER
5 Employee of
Christopher P. Burke, Esq.

6 Gregory L. Wilde, Esq.
7 WILDE & ASSOCIATES
8 212 S. Jones Blvd.
Las Vegas, NV 89107

Rick A. Yarnall, Trustee
701 Bridger Ave.
#820
Las Vegas, NV 89101

9 Mark S. Bosco, Esq.
10 TIFFANY & BOSCO, P.A.
11 2525 E. Camelback Rd., Suite 300
Phoenix, AZ 85016

U.S. Trustee
300 Las Vegas Blvd. S., #4300
Las Vegas, NV 89101

12 Anthony Hollingsworth
13 1508 Crystal Rainy
N. Las Vegas, NV 89086